



New Discriminatory Laws and Bills in Israel

29 November 2010

Since the elections in February 2009, which brought one of the most right-wing government coalitions in the history of Israel to power, a flood of discriminatory legislation has been introduced in the Knesset that targets Palestinian Arab citizens of Israel in a wide range of fields. New bills that directly or indirectly target Palestinians in Israel – and Palestinians in the OPT and the Palestinian refugees – appear on a near-weekly basis, as the legislative agenda of the right-wing government coalition is pushed through the Knesset. These new laws and bills seek, inter alia, to dispossess and exclude Arab citizens from the land; turn their citizenship from a right into a conditional privilege; undermine the ability of Arab citizens of Israel and their parliamentary representatives to participate in the political life of the country; criminalize political expression or acts that question the Jewish or Zionist nature of the state; and privilege Jewish citizens in the allocation of state resources. Some of the legislation is specifically designed to preempt, circumvent or overturn Supreme Court decisions providing protection for these rights.

This short paper provides a list of 20 main new laws and currently-tabled bills that discriminate against the Palestinian minority in Israel and threaten their rights as citizens of the state, and in some cases harm the rights of Palestinian residents of the OPT.¹ While this paper does not cover the entire body of discriminatory and/or racist legislation currently pending in the Knesset, it lists bills that have a serious chance of passing into law and/or stand to cause significant harm to the rights of Palestinians, if enacted. This paper further details legal action taken by Adalah and international advocacy initiatives intended to raise awareness of the legislation, before both the UN and EU.² These new discriminatory laws and bills accompany a series of criminal indictments issued by the Attorney General and Knesset-instigated punitive measures pursued against Arab Members of Knesset (MKs).³ Adalah is currently representing Arab MKs Mohammed Barakeh, Said Naffaa' and Haneen Zoabi in these cases.

Land and Planning Rights

1. The Israel Land Administration (ILA) Law (2009)

The law, enacted by the Knesset on 3 August 2009, institutes broad land privatization. Much of the land owned by the Palestinian refugees and internally-displaced persons (currently held by

¹ See also, Briefing Note by Adalah and the Arab Association for Human Rights, 4 June 2009:

http://www.adalah.org/features/var/Adalah_HRA_EU_upgrade_letter_FINAL_4.6.09%5B1%5D.pdf; Adalah's Special Report: 10 New Discriminatory Laws, June 2010: <http://www.adalah.org/eng/10.php>

² See, e.g., Adalah's NGO report to the UN Human Rights Committee, June 2010:

http://www.adalah.org/newsletter/eng/jun10/docs/hrc_response.pdf; Adalah's NGO report to the UN Committee on Economic, Social and Cultural Rights, October 2010:

<http://www.adalah.org/newsletter/ara/oct10/Adalah%20CESCR%20Report%20October%202010.pdf>

³ See Adalah Briefing Paper, "Restrictions on Human Rights Organizations and the Legitimate Activities of Arab Political Leaders in Israel," submitted to the European Parliament, Committee on Foreign Affairs, Sub-Committee on Human Rights, June 2010: <http://www.adalah.org/newsletter/eng/jun10/docs/bp.pdf>. Since the publication of this paper, Adalah has submitted petitions to the Supreme Court on behalf of MK Mohammed Barakeh (HCJ 5754/10, *Barakeh v. Tel Aviv Magistrate Court, et. al.*, and MK Haneen Zoabi (HCJ 8148/10, *Zoabi v. The Knesset*).

the state as “absentees’ property”), some of the lands of destroyed and evacuated Arab villages, and land otherwise confiscated from Palestinian citizens, can be sold off under the law and placed beyond future restitution claims. The law further permits land exchanges between the state and the Jewish National Fund (JNF), the land of which is exclusively reserved for the Jewish people.⁴ It also grants decisive weight to representatives of the JNF (6 out of 13) in a new Land Authority Council, to replace the ILA, which manages 93% of the land in the state.

[Position Paper](#) | [Press Briefing](#)

2. Amendment (2010) to The Land (Acquisition for Public Purposes) Ordinance (1943)

This British Mandate-era law allows the Finance Minister to confiscate land for “public purposes”. The state has used this law extensively, in conjunction with other laws such as the Land Acquisition Law (1953) and the Absentees’ Property Law (1950), to confiscate Palestinian land in Israel. The new amendment, which passed on 10 February 2010, confirms state ownership of land confiscated under this law, even where it has not been used to serve the original confiscation purpose. It allows the state not to use the confiscated land for the original confiscation purpose for 17 years, and prevents landowners from demanding the return of confiscated land not used for the original confiscation purpose if it has been transferred to a third party, or if more than 25 years have elapsed since the confiscation. The amendment expands the Finance Minister’s authority to confiscate land for “public purposes,” which under the law includes the establishment and development of towns, and allows the Minister to declare new purposes. The new law was designed to prevent Arab citizens from submitting lawsuits to reclaim confiscated land: over 25 years have passed since the confiscation of the vast majority of Palestinian land, and large tracts have been transferred to third parties, including Zionist institutions like the JNF.

[Press Briefing](#)

3. Amendment (2010) to the Negev Development Authority Law (1991): Individual settlements

“Individual settlements” are a tool used by the state to provide individual Jewish families with hundreds and sometimes thousands of dunams of land for their exclusive use, and keep it out of the reach of Arab citizens of Israel in the Naqab (Negev). There are around 60 individual settlements in the Naqab, stretching over 81,000 dunams, often established without permits and contrary to planning laws. The amendment, passed in July 2010, recognizes all individual settlements in the Naqab and gives the Negev Development Authority the power to make recommendations the Israel Land Administration to allocate lands for individual settlements. The amendment followed an Israeli Supreme Court ruling in June 2010 that allowed for the recognition of individual settlements in the Naqab covered by the “Wine Path Plan”. The court delivered the ruling on a petition filed against the Wine Path Plan by Adalah, Bimkom and the Negev Coexistence Forum in 2006.⁵ While the amendment affords official status to the individual settlements, which are provided with all basic services, the unrecognized Arab Bedouin villages in the Naqab are denied status and their 80,000 inhabitants, all citizens of Israel, live without the most basic of services. In its judgment, the court did not address the petitioners’ arguments concerning the unequal land distribution and discrimination against the unrecognized villages entailed by the plan.

[Press Briefing](#)

⁴ See HCJ 9205/04, *Adalah v. Israel Land Administration (ILA), et al.* (case pending). This Supreme Court petition was filed by Adalah in 2004 demanding the cancellation of an ILA policy permitting the marketing and allocation of JNF-controlled lands by the ILA (a state agency) through bids open only to Jewish individuals. .

⁵ HCJ 2817/06, *Adalah, et al. v. The National Council for Planning and Building, et al.* (decision delivered 15 June 2010)

4. “Admissions Committee” Law

The Admissions Committees Law is due to be submitted for final reading before the Knesset during the week of 29 November 2010, and is expected to be passed into law.⁶ The new legislation anchors into law the operation of “admissions committees,” bodies that select applicants for housing units and plots of land in “community towns” and in community neighborhoods in agricultural towns in Israel, which sit on “state land”. The committees include “a representative from the Jewish Agency or the World Zionist Organization”, quasi-governmental entities, and are used in part to filter out Arab applicants, in addition to other marginalized groups. Admissions committees currently operate in 695 agricultural and community towns, which together account for 68.5% of all towns in Israel and around 85% of all villages. Under the new law, admissions committees assess applicants according to whether they suit the “social life in a community” and fit into the “social, cultural fabric” of the town,⁷ in addition to other specific conditions stipulated by the communal associations in each community. Entrenching the arbitrary criterion of “social suitability” in the law stands to perpetuate discrimination against Palestinian citizens of Israel in accessing state land and further institutionalize racially-segregated towns and villages throughout the state.⁸ The ILA instituted “social suitability” criteria in order to bypass the landmark Supreme Court decision in *Qa’dan* from 2000,⁹ in which the court ruled that the state’s use of the Jewish Agency to exclude Arabs from state land constituted discrimination on the basis of nationality. Adalah petitioned the Supreme Court in 2007 to challenge the operation of admissions committees on behalf of the Arab Zubeidat family – who had been rejected by the admissions committee in the community town of Rakevet on the humiliating ground of their “social unsuitability” – as well as Mizrahi Jewish groups and gays.¹⁰ Adalah plans to challenge the law, if enacted, before the Supreme Court.

[Data Paper](#)

Civil and Political Rights

5. Bill to revoke citizenship for acts defined as espionage and terrorism

A bill currently before the Knesset seeks to permit the revocation of the citizenship of persons convicted of espionage and assisting the enemy in time of war, and acts of terrorism as defined under the Prohibition on Terrorist Financing Law (2005).¹¹ On 26 October 2010, Adalah wrote to the Chair of the Knesset’s Internal Affairs and Environment Committee asking him not to support the bill. Adalah argued that the legitimate path for dealing with such alleged crimes is criminal law, and that the bill is one of a series of laws and bills targeting Arab citizens that seek to make their citizenship conditional, in line with the right-wing political rallying cry of “no citizenship, no loyalty.” This new amendment follows a prior amendment made to the Citizenship Law in 2008 which provides that citizenship may be revoked for “breach of trust or disloyalty to the state”.¹²

⁶ On 15 November 2010, Adalah sent a letter to several ministers, the Chair of the Knesset's Constitution, Law and Justice Committee, the Attorney General, and the Director General of the Israel Land Administration asking that the bill be cancelled. The letter is on file with Adalah (Hebrew).

⁷ Article 6C(a) of the bill.

⁸ See Adalah news update, 4 November 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=04_11_10_2

⁹ HCJ 6698/95, *Qa’dan v. The Israel Land Administration, et al.*, P.D. 54(1) 258, decision delivered March 2000.

¹⁰ HCJ 8036/07, *Fatina Ebriq Zubeidat, et al. v. The Israel Land Administration, et al.* In May 2010, Adalah submitted an amended petition challenging a new ILA decision permitting admissions committees and their use of the criterion of “social suitability”. See Adalah news update, 27 July 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=27_07_10_1

¹¹ Legislative bill no. 2366/18, introduced on 3 May 2010.

¹² See, e.g., Amendment No. 9 (Authority for Revoking Citizenship) (2008) to article 11 of the Citizenship Law (1952). “Breach of trust” is broadly defined and even includes the act of naturalization or obtaining permanent residency status in one of nine Arab and Muslim states which are listed by the law, and the Gaza Strip. The law allows for the revocation of citizenship without requiring a criminal conviction.

The revocation of citizenship is one of the most extreme punitive measures at the disposal of states, and may result in cruel and disproportionate punishment, particularly when pursued against a particular group of citizens, in this case Palestinian citizens of Israel. The bill appeared following the arrest and indictment of Arab civil society leader Ameer Makhoul on charges of espionage.

6. Bill to amend the Citizenship Law (1952) imposing loyalty oath for non-Jews seeking citizenship

A proposed amendment to the Citizenship Law requires all non-Jews seeking citizenship via the naturalization process to declare an oath of loyalty to Israel as a “Jewish and democratic state.” It would replace the text of the current declaration, which reads, “I declare that I will be a loyal citizen of the State of Israel.” Requiring new citizens to swear allegiance to Israel as a “Jewish and democratic state” marginalizes the status of Arab citizens of Israel by deeming Israel a state for Jews only. The enactment of the amendment may prove to be a slippery slope as, in accordance with numerous other bills introduced in the Knesset, declarations of allegiance to a Jewish and democratic state could soon be required of all ministers, Knesset members, civil service employees, etc.¹³ Adalah sent a letter to the Prime Minister, Attorney General, and Justice Minister on 7 October 2010, arguing that the bill specifically targets Palestinian Arab citizens of Israel, whose “non-Jewish” spouses – Palestinians from the Occupied Palestinian Territory (OPT) and other Arab states – are those who would have to swear the oath. The bill received governmental approval on 10 October 2010 but does not currently enjoy the support of a Knesset majority.

[Press briefing](#) | Letter (Hebrew)

7. Bill (2009) to amend the Basic Law: Human Dignity and Liberty and limit the judicial review powers of the Supreme Court to rule on matters of citizenship

This bill was proposed in December 2009 and seeks to limit the judicial review powers of the Israeli Supreme Court on issues related to citizenship. It was put forward in the context of Supreme Court hearings on petitions filed against provisions of the Citizenship and Entry into Israel Law (Temporary Order) – 2003 that prohibit entry into Israel by Palestinians in the OPT and other “enemy states,” as defined by Israel (such as Syria, Lebanon, Iran and Iraq) for purposes of family unification with Israeli citizens, overwhelmingly Arab citizens of Israel.¹⁴ Adalah sent a letter to the Justice Minister and the Attorney General on 18 December 2009 requesting that they reject the bill on the grounds that it violates the right of every person to access the courts, as well as the principle of the separation of powers, and thus the rule of law.¹⁵ There is no coalition agreement to date to promote the bill.¹⁶

8. Bill (2009) to Amend to The State Budget Law (1985) (The “Nakba Bill”)

The “Nakba Bill” proposes to ban all bodies that receive state funding on an activity that, inter alia, “commemorates Independence Day or the day of the establishment of the state as a day of

¹³ See, e.g., a currently-proposed amendment to The Basic Law: The Government – Loyalty Oath (Legislative bill no. 5/18, introduced 1 April 2009), which stipulates that upon taking office, all ministers must make an oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. Ministers are currently required to make an oath only to the state. Two similar bills seeking to amend *The Basic Law: The Knesset* propose to impose loyalty oaths on MKs. The first (Legislative bill no. 7/18, introduced 1 April 2009) requires all MKs to make an oath to the state as a “Jewish, Zionist and democratic state” and to the values and symbols of the state. The second (Legislative bill no. 226/18, introduced 1 April 2009) requires MKs to swear allegiance to the State of Israel as a “Jewish and democratic state.” These bills place severe restrictions on the rights of Arab citizens of Israel of political participation.

¹⁴ See e.g., HCJ 466/07, *MK Zahava Galon v. The Attorney General, et al.* (case pending).

¹⁵ Letter on file with Adalah (Hebrew).

¹⁶ A series of bills pending in the Knesset seek to amend The Basic Law: The Judiciary in order to cancel the power of the Supreme Court to invalidate laws enacted by the Knesset. The Ministerial Committee on Legislation considered the bill on 18 October 2010, but the Prime Minister opposed it and it did not advance further.

mourning.”¹⁷ Palestinians traditionally mark Israel’s official Independence Day as a national day of mourning and organize commemorative events. In its original form, the bill sought to ban all commemoration of the Nakba. According to the current draft of the legislation, any state-funded body found to have commemorated the Nakba on Israel’s Independence Day faces a fine of up to ten times the sum expended on the commemoration. The ban affects not only public institutions like schools, but also NGOs and other civil society and political organizations that receive even a small amount of state funding. The bill imposes severe limitations on freedom of expression and association.¹⁸ The Knesset passed the bill on first reading in March 2010.

Political Participation

9. The Regional Councils Law (Date of General Elections) (1994) Special Amendment No. 6 (2009)

The law grants the Interior Minister absolute power to declare the postponement of the first election of a Regional Council following its establishment for an indefinite period of time. The law previously stipulated that elections must be held within four years of the establishment of a new regional council. The Knesset passed the law shortly before elections were due to take place to the Abu Basma Regional Council, which includes ten Arab Bedouin villages in the Naqab (pop: 25,000) and was established over six years ago. The result of the law is that no elections have been held and local people are not represented or governing themselves. The current government-appointed council, which is comprised of a majority of Israeli Jewish members and appointed by the Interior Minister, remains in place. On 27 April 2010, Adalah and the Association for Civil Rights in Israel (ACRI) petitioned the Supreme Court of Israel to demand the cancellation of the amendment and ask the court to order the Interior Minister to announce the holding of democratic elections in the regional council immediately.¹⁹

[Press briefing](#) | [Petition](#) (Hebrew)

Economic, Social and Cultural Rights

10. The Economic Efficiency Law (Legislative Amendments for Implementing the Economic Plan for 2009-2010) (2009)

A section of this law concerns “National Priority Areas” (NPAs). It grants the government sweeping discretion to classify towns, villages and areas as NPAs and to allocate enormous state resources without criteria, in contradiction to a landmark Israeli Supreme Court decision from 2006²⁰ in which the court ruled unconstitutional a government decision from 1998 which classified 553 Jewish towns and only 4 small Arab villages as NPAs. On 20 June 2010, after four years of non-compliance by the state and additional litigation, Adalah filed a motion for contempt of court to the Supreme Court against the Prime Minister due to the government’s failure to

¹⁷ Article 3B(a)(1) of The State Budget Law, Amendment: Prohibited Expenses (2009), legislative bill no. 18/1403, introduced 9 March 2010.

¹⁸ See Sawsan Zaher, “The Prohibition on Teaching the Nakba in the Arab Education System in Israel,” Adalah’s Newsletter, Volume 74, August/September 2010:

<http://www.adalah.org/newsletter/eng/sep10/docs/Sawsan%20Nakba%20English%20final.pdf>

¹⁹ HCJ 3183/10, *Hussein Rafeea, et al. v. The Minister of the Interior, et al.* (case pending). A court hearing has been scheduled for 9 February 2011.

²⁰ HCJ 2773/98 and HCJ 11163/03, *The High Follow-Up Committee for Arab Citizens in Israel v. The Prime Minister of Israel*. Decision delivered February 2006, case brought by Adalah.

implement the court's decision and the resulting perpetuation of discrimination against Arab citizens of Israel.²¹

[Press briefing](#) | [Motion for contempt](#) (Hebrew)

A further section of the law stipulates that children who do not receive the vaccinations recommended by the Ministry of Health will no longer be provided with financial support in the form of "child allowances". This provision mainly affects Arab Bedouin children living in the Naqab (Negev), since most of the children who do not receive the vaccinations come from this group due to the inaccessibility of health care. The provision therefore discriminates against them on the basis of their national belonging. The Ministry of Health recently closed down "mother and child" clinics in three Arab Bedouin towns which provide these vaccinations, and re-opened just two of them after Supreme Court litigation by Adalah.²² Adalah submitted a petition to the Israeli Supreme Court on 7 October 2010, demanding the annulment of the amendment, which will come into effect on 15 December 2010.²³

[Press briefing](#) | [Petition](#) (Hebrew)

11. Absorption of Discharged Soldiers Law (1994) (Amendment No. 12) (2010)

According to the new law, enacted in July 2010, any registered university or college student who has completed his or her military service and is a resident of a designated "National Priority Area" such as the Naqab, the Galilee or the illegal Jewish settlements in the West Bank will be granted a "compensation package" including: full tuition for the first year of academic education; a year of free preparatory academic education; and additional benefits in areas like student housing. This benefits package goes far beyond and adds to the already extensive educational benefits package that is enjoyed by discharged soldiers in Israel. In general, Palestinian Arab citizens of Israel are exempt from military service and thus they are excluded from receiving these state-allocated benefits and discriminated against on the basis of their national belonging. This new law follows a 2008 amendment to the Absorption of Discharged Soldiers Law that anchors the use of the military service criterion in determining eligibility for student dormitories in all higher education institutions into law, and grants broad discretion to these institutions to grant additional economic benefits to discharged soldiers, regardless of the benefits provided to them under any other law.²⁴ A number of other bills that condition various benefits on the performance of military/national service are also pending in the Knesset.²⁵

[Press briefing](#) | [Position paper](#) (Hebrew)

²¹ A court hearing has been scheduled for 2 February 2011.

²² HCJ 10054/09, *Wadad El-Hawashly, et al. v. Ministry of Health*. For more information, see Adalah news update, 11 August 2010: http://www.adalah.org/eng/pressreleases/pr.php?file=11_08_10

²³ HCJ 7245/10, *Adalah v. Minister of Welfare and Social Affairs* (case pending). A hearing has been scheduled for 29 November 2010.

²⁴ The amendment followed a precedent-setting decision by the Haifa District Court which accepted a petition filed by Adalah on behalf of three Arab students from the University of Haifa. The court ruled that the use of the criterion of military service in determining eligibility for student dormitories discriminates against Arab students. The petition argued that the university is not authorized to add benefits to discharged soldiers that exceed those granted to them by the Absorption of Discharged Soldiers Law. Civil Lawsuit (Haifa District Court) 217/05, *Naamnih et al. v. University of Haifa*, delivered August 2006.

²⁵ See Adalah and the Arab Association for Human Rights (HRA), Briefing to the EU, 4 June 2009: http://www.adalah.org/features/var/Adalah_HRA_EU_upgrade_letter_FINAL_4.6.09%5B1%5D.pdf

12. Bill to strip MKs suspected of crimes of their Knesset pension

The bill affects current or former Members of Knesset declared by the Attorney General to be alleged suspects or defendants or convicted of crime, who do not appear at a criminal trial against them while under investigation for a crime punishable by at least five years' imprisonment. The bill was drafted in response to the exile of former Arab MK Dr. Azmi Bishara (Balad/Tajammaa), who left Israel in March 2007 after police announced he was suspected of providing information to Hezbollah during the Second Lebanon War. However, the state has not pointed to any clear evidence against Dr. Bishara; if there is any evidence, it has been kept secret and undisclosed and no indictment has been issued against him. These facts indicate the arbitrary nature of the bill; even MKs against whom there is no clear evidence could be harmed and lose their pensions. On 9 November 2010, the Knesset House Committee voted to approve the bill in its first reading and to pass it to the Knesset plenum.²⁶

Criminal Procedure Laws: Prisoners and Detainees

13. Bill threatening to further violate basic rights of security detainees

This bill,²⁷ tabled in 2010, is designed to extend the validity of harsh, special detention procedures for those suspected of security offenses. While neutral on its face, in practice the bill would apply to and be used mainly against Palestinians from Gaza and Palestinian citizens of Israel. The special procedures allow law enforcement authorities to delay bringing a security suspect before a judge for up to 96 hours after arrest (instead of 48 hours for other detainees). It also allows the courts to extend a security suspect's detention for up to 20 days at a time (instead of 15 days) and to hold extension of detention hearings in his/her absence. In this last respect, the bill seeks to bypass a February 2010 Supreme Court decision that struck down article 5 of the Criminal Procedure (Detainees Suspected of Security Offences) (Temporary Order) Law (2006),²⁸ which stipulated that security suspects could have their pre-trial detention extended in their absence.²⁹ The law removes a number of essential procedural safeguards from detainees, thus placing them at a greater risk of torture and ill-treatment. Adalah sent a letter to the Knesset's Constitution, Law and Justice Committee on 21 October 2010 to demand that the bill be rejected. The bill has passed first reading in the Knesset's Constitution, Law and Justice Committee. The next reading is scheduled for 14 December 2010.

[Press briefing](#)

14. Bill to expand the circumstances in which lawyers can be prohibited from meeting sentenced security prisoners or and prisoners involved in organized crime

This bill would allow the Israel Prison Service (IPS) to prohibit lawyers from meeting sentenced security prisoners for 7 days (currently the law allows 24 hours), a period that which could be extended for up to as many as 90 days (the law currently allows for only 5 days), with the approval of the state prosecutor. According to the bill, the District Court can extend this prohibition for up to 6 months, instead of 21 days under the current law. Currently there are over 4,700 sentenced Palestinians being held as security prisoners in Israeli prisons. The bill also

²⁶ See, e.g., Zvi Zrahiya, Former Israeli Arab MK set to lose pension for skipping trial, *Haaretz*, 9 November 2010.

²⁷ Entitled Criminal Procedure Law (Suspects of Security Offenses) (Temporary Order) (Amendment No. 2) (2010), the bill was discussed by the Knesset's Constitution, Law and Justice Committee on 25 October 2010.

²⁸ Originally passed by the Knesset as a "temporary order" for 18 months, the law was extended in January 2008 for three years.

²⁹ HCJ 2028/08, *The Public Committee Against Torture in Israel, et al. v. The Minister of Justice* (petition withdrawn 24 March 2009). For more information, see Adalah news update, 23 February 2010:

http://www.adalah.org/eng/pressreleases/pr.php?file=23_02_10

applies to sentenced prisoners involved in “organized crime”. Significantly, the legislation targets the lawyers as well as the prisoners. The bill will be discussed by the Ministerial Committee on Legislation on 28 November 2010.

15. The “Shalit laws”

Several bills currently before the Knesset’s House Committee seek to impose further severe restrictions on Palestinian security prisoners held in Israeli prisons. All of these bills have passed a preliminary vote in the Knesset plenum and enjoy strong, broad-based support among MKs. The purpose of these additional restrictions on Palestinian prisoners is to bring pressure to bear on Hamas to release captured Israeli soldier Gilad Shalit. This is an illegitimate political purpose that cannot be used to justify the denial of prisoners’ basic rights. If approved by the Knesset, these bills would render Palestinian prisoners vulnerable to being used as hostages or bargaining chips in negotiations for prisoner exchanges.

- *The Preventing Visits Bill – 2009*³⁰ seeks to impose a blanket ban on prisoners who belong to an organization designated as a terror organization from receiving visits in prison.³¹
- *The Restriction of Visitation for a Security Prisoner Bill – 2010*³² proposes that any prisoner who belongs to an organization designated as a terror organization that holds an Israeli captive should be denied visits in prison and the right to meeting a lawyer.
- *The Release of Captives and Kidnapped Persons Bill – 2009*³³ states that if an organization designated as a terror organization holds an Israeli captive and demands the release of a specific prisoner held in an Israeli jail, then this prisoner should be placed in “absolute isolation and be prevented from contact with another human being.”
- *The Imprisonment of Requested Prisoners – 2009*³⁴ states that any prisoner whose release is conditioned on the release of an Israeli held captive by an organization designated as a terror organization should be denied any right that could be restricted on security reasoning, held in isolation indefinitely and not be entitled to early release or parole. Once such prisoners have served their sentence, they should be declared a detainee and continue to be held.

Freedom of Association

The following series of bills seek to curtail the freedom of association and expression of NGOs in Israel. This barrage of bills is mainly a response to claims that the legitimate work of these organizations in defense of the rights of Palestinians constitutes a deliberate campaign to “delegitimize” Israel following the publication of the Goldstone Report in September 2009.³⁵ The fourth bill noted here specifically targets Arab organizations in Israel on lines similar to that of the “loyalty bills” noted above.

16. Bill on disclosure requirements for recipients of support from a foreign political entity (2010) (“NGO Funding Bill”)

The original version of this draconian bill received the government support and was passed a preliminary Knesset vote in February 2010. The bill threatened the work and existence of human rights NGOs by defining them as “political entities”; forcing NGO representatives to declare foreign government funding at every public appearance; revoking their tax-exempt charity status;

³⁰ Bill no. P/18/735, passed by the Knesset by a 52-10 majority, with 1 abstention

³¹ In accordance with this bill, such prisoners would only be entitled to visits by the International Committee of the Red Cross (ICRC), and these would be limited to once every three months.

³² Bill no. P/18/2396, passed by the Knesset by a 51-10 majority.

³³ Bill no. P/18/829, passed by the Knesset by a 53-9 majority.

³⁴ Bill no. P/18/758, passed by the Knesset by a 54-10 majority, with 1 abstention.

³⁵ See, e.g., The Reut Institute, *Building a Political Firewall Against Israel's Delegitimization*, March 2010: <http://www.reut-institute.org/data/uploads/PDFVer/20100310%20Delegitimacy%20Eng.pdf>

and demanding the registration of members' identity numbers and addresses. The bill has since been modified twice and some of the harshest provisions deleted. However, recent drafts of the bill impose invasive reporting requirements for foreign government funds, including details of the purpose of the grant, the sum, the identity of the donor, and details of all undertakings between donor and grantee. These details must also be publicized on the websites of the NGOs, Ministry of Justice and Registrar of Associations.³⁶

While the bill's declared purpose is to increase transparency, it is superfluous since all non-profit organizations in Israel are required to list their donors, including foreign governments, on their website and report annually to the government.³⁷ Its purpose is rather to hinder NGOs and damage their financial viability, as these restrictions may strongly discourage foreign government funding. It further targets human rights NGOs, the groups in Israel that receive foreign government funding. Right-wing and settler groups are privately funded and will not be affected. Thus the bill is inherently discriminatory. Palestinian organizations and organizations that promote Palestinian rights are particularly vulnerable since they often have no access to funding from Israeli governmental sources and more limited access to private local funding. The bill passed its first reading in the Knesset on 18 October 2010.

[Briefing paper](#) | [English translation of the bill](#)

17. The Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association) (2010) (“Universal Jurisdiction Bill”)

This bill, introduced in February 2010, seeks to outlaw associations that provide information to foreigners or are involved in litigation abroad against senior officials of the Israeli government and/or army chiefs for war crimes.³⁸ The bill would prohibit the registration of any NGO if “there are reasonable grounds to conclude that the association is providing information to foreign entities or is involved in legal proceedings abroad against senior Israeli government officials or IDF [Israeli military] officers, for war crimes.” An existing NGO would be shut down under the proposed law for engaging in such activity. The text of the bill refers directly to the Goldstone Report to justify its provisions. Because it essentially seeks to conceal information or suspicions of a crime, it contradicts the customary norms of international criminal law and international humanitarian law. It constitutes a dangerous attack against human rights organizations and anyone opposed to war crimes. This private bill has not yet been approved by the government.

[Press briefing](#) | [English translation](#)

18. Bill to Prohibit Imposing a Boycott (2010) (“Ban on BDS Bill”)

The bill, tabled in June 2010, proposes to outlaw any activities promoting any kind of boycott against Israeli organizations, individuals or products. In its original form, the bill targeted Israelis, the Palestinian Authority, Palestinians and foreign governments and individuals, and sought to impose heavy fines, economic sanctions and entry bans on supporters of boycott activities. However, when the bill passed the preliminary vote by the Knesset on 14 July 2010, the application of the prohibition to foreign citizens and foreign political entities was cancelled, leaving only a prohibition and fine on Israeli citizens and residents.³⁹ According to the bill, any “injured party” can sue any organization or person who initiated boycott against them for a sum

³⁶ See, e.g.: <http://www.jnews.org.uk/news/modified-bill-to-monitor-funding-of-israeli-ngos-discussed>

³⁷ The Association for Civil Rights in Israel (ACRI) has cautioned against “misuse of (purported) transparency and reporting mechanisms for the purpose of negatively impacting the legal and legitimate activities of individuals, groups or bodies of various sorts, and against utilizing these tools to eliminate and silence political or ideological opponents.” ACRI position paper on the bill, 23 February 2010, available at: <http://www.acri.org.il/eng/story.aspx?id=706>

³⁸ Bill no. P/18/2456.

³⁹ See, JNews, *Antiboycott bill passes preliminary reading in the Knesset*, 14 July 2010: <http://www.jnews.org.uk/news/antiboycott-bill-passes-preliminary-reading-in-the-knesset>

of up to NIS 30,000, without having to provide evidence for the damage incurred. If passed, the bill will criminalize the activities of many NGOs in Israel and seriously damage their ability to function in their capacity as human rights defenders.

[English translation of the bill](#)

19. Bill for Protecting the Values of the State of Israel (Amendment Legislation) (2009) (“Jewish and Democratic State Bill”)

This private member’s bill would authorize the Registrar of Associations and the Registrar of Companies to close down associations or companies if their goals or actions are against the state as a “Jewish and democratic” state.⁴⁰ The bill, proposed in 2009, violates the right of freedom of association and freedom of expression of all Arab organizations in Israel which seek through democratic means to challenge discrimination, improve the political, legal, and social status of Palestinians in Israel, and promote the concept of Israel as a democratic state for all its citizens. It asks them to express their loyalty to the Jewish state and therefore seeks to limit the rights of the Arab minority. The bill bears similarities to Section 7A of the Basic Law: The Knesset – 1985 asks every Arab political party list not to deny the existence of Israel as a “Jewish and democratic” state, an un-democratic provision that has been used in every election to attempt to disqualify the Arab political parties from running in elections. The bill seeks to undermine the daily operation of Arab organizations and put them under ultra-nationalist, ideological investigation, threatening their legitimate activities. The Ministerial Committee for Legislation decided in early November 2010 that the text shall be modified in coordination with the Minister of Justice and re-discussed after 30 days.

[Press briefing](#) | [English translation of the bill](#)

Occupied Palestinian Territory (OPT)

20. Amendment No. 8 (2007) to the Civil Wrongs (Liability of the State) Law (1952)

This bill seeks to exempt the state from its responsibility for injuries and damages inflicted on Palestinians in the OPT. Although proposed before the current government took office, it is sponsored by the government and is now being actively promoted. The proposed law would apply retroactively to injuries and property damages sustained by Palestinians from 2000 onwards. It stipulates that even the victims of unlawful acts by Israeli security forces carried out outside the context of any wartime action will be left without a legal remedy in the form of torts. In the absence of the right to claim damages in such cases, the possibility of investigating incidents of wanton damage to property, theft and abuse by soldiers or other members of the security forces would be further diminished. The bill seeks to reverse a unanimous, nine-justice Supreme Court decision delivered in December 2006 to invalidate a similar law.⁴¹ In that case, the court ruled that the law violated the rights to life, dignity, property and liberty and was in breach of the Basic Law: Human Dignity and Liberty. The Knesset’s Constitution, Law, and Justice Committee reviewed the amendment on 16 November 2010.⁴²

[Press Briefing](#) | [Position paper](#)

⁴⁰ Bill no. P/18/1220. The bill was discussed by the Ministerial Committee for Legislation on 7 November 2010.

⁴¹ See HCJ 8276/05, *Adalah, et al. v. Minister of Defense* (decision delivered 12 December 2006). An English translation of the Supreme Court’s decision is available at: [http://www.icrc.org/ihl-nat.nsf/46707c419d6bdfa24125673e00508145/d40d96289166cddd12575bc00361c74/\\$FILE/HCI%208276.05.doc](http://www.icrc.org/ihl-nat.nsf/46707c419d6bdfa24125673e00508145/d40d96289166cddd12575bc00361c74/$FILE/HCI%208276.05.doc)

⁴² See also, Ido Rosenzweig and Yuval Shany, Israel Democracy Institute, *Definition of “Combat Action” in Civil Tort Law (Liability of the State) – Amendment Bill (No. 8)*: [http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Terrorism and Democracy/Newsletters/Pages/10th%20Newsletter/2/2.aspx](http://www.idi.org.il/sites/english/ResearchAndPrograms/NationalSecurityandDemocracy/Terrorism%20and%20Democracy/Newsletters/Pages/10th%20Newsletter/2/2.aspx)